

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA)	Criminal No. 3:22-MJ-619 (ATB)
)	
v.)	Stipulation and Order
)	for Enlargement of Time
DUANE HOLLENBECK,)	
)	
Defendant.)	

STIPULATION

The United States of America, by and through its counsel of record, the United States Attorney for the Northern District of New York, and the defendant, Duane Hollenbeck, by and through counsel, Gabrielle DiBella, Esq., hereby agree and stipulate that the time within which an indictment must be filed under Title 18, United States Code, Section 3161(b), be enlarged to and including sixty (60) days from the date of the order to March 3, 2023 and that such time be excluded, pursuant to Title 18, United States Code, Section 3161(h)(7)(A), from the computation of the time within which an indictment must be filed under the provisions of Title 18, United States Code, Section 3161(b).

- 1) The chronology of this case is as follows:
 - a) Date of complaint: October 18, 2022
 - b) Date of initial appearance: October 20, 2022
 - c) Defendant custody status: Pretrial Detention
- 2) Earlier enlargements of time and exclusions under the Speedy Trial Act:
 - a) Order dated November 10, 2022 excluding the period between November 10, 2022 and January 7, 2023.

b) Order dated January 5, 2023 excluding the period between January 5, 2023 until March 3, 2023.

3) The United States and/or the defendant request this exclusion based on the following facts and circumstances: The parties have reached agreement on a pre-indictment resolution of this matter and are in the process of submitting the relevant documents to the Court for the assignment of the case for a change of plea. The additional time will allow the case to be assigned to a district court judge and the plea conducted in front of the assigned judge.

a) The parties stipulate and agree that the ends of justice served by granting this extension outweigh the best interest of the public and the defendant in a speedy indictment and trial because the arrest occurred at a time such that it is unreasonable to expect return and filing of an indictment within the period specified in section 3161(b), taking into account the exercise of due diligence (see 18 U.S.C. § 3161(h)(7)(B)(iii)).

4) The parties stipulate and agree that the time period from the date of this stipulation, to and including April 28, 2023, shall be excludable under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(7)(A) and (h)(7)(B)(iii).

The undersigned attorneys affirm under penalty of perjury the accuracy of the facts set forth above and apply for and consent to the proposed order set forth below.

Dated: February 27, 2023

CARLA B. FREEDMAN
United States Attorney

By: /s/ Geoffrey J.L. Brown
Geoffrey J.L. Brown
Assistant United States Attorney
Bar Roll No. 513495

Gabrielle DiBella
Gabrielle DiBella, Esq.
Attorney for Duane Hollenbeck
Bar Roll No. 700576

ORDER

A. The Court adopts the stipulated facts set out above as findings and hereby incorporates them into this Order;

1. The Court has considered its obligation under 18 U.S.C. § 3161(h)(7)(A) to determine whether a continuance serves the ends of justice in a manner that outweighs both the public interest and the defendant's rights. The Court finds that pursuant to 18 U.S.C. § 3161(h)(7)(A), the ends of justice served by granting the requested continuance outweigh the best interests of the public and the defendant in a speedy trial because the delay in the filing of an indictment was caused because the arrest occurred at a time such that it is unreasonable to expect return and filing of an indictment within the period specified in section 3161(b), taking into account the exercise of due diligence (3161(h)(7)(B)(iii)).

BASED ON THE STIPULATED FACTS AND THE COURT'S RELATED FINDINGS, IT IS HEREBY ORDERED that the time within which an indictment must be filed under the provisions of Title 18, United States Code, Section 3161(b), be enlarged to and including sixty (60) days from the date of this Order, and that time be excluded pursuant to Title 18, United States Code, Section 3161(h)(7)(A), from the computation of the time within which an indictment must be filed under the provisions of Title 18, United States Code, Section 3161(b), because the ends of justice served by granting this continuance outweigh the best interest of the public and the defendant in a speedy trial for the reasons stipulated above. IT IS SO ORDERED.

Dated and entered this _____ day of February, 2023.

Hon. Andrew T. Baxter
U.S. Magistrate Judge